



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,679	03/09/2004	Helmuth Gabl	ANDPAT/182/US	2627
2543	7590	03/01/2007	EXAMINER	
ALIX YALE & RISTAS LLP 750 MAIN STREET SUITE 1400 HARTFORD, CT 06103			LITHGOW, THOMAS M	
		ART UNIT	PAPER NUMBER	
		1724		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/01/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/796,679	GABL ET AL.	
	Examiner Thomas M. Lithgow	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 December 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
 - 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 March 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 4429277. DE '277 discloses a deinking flotation cell 10 which includes measuring the froth and pulp levels, measuring a quality of the accept fraction at 28 and controlling, among other things, the froth and the pulp level in response to the accept measurements. Applicant asserts that DE '277 fails to disclose each and every element of the independent claims 1, 10 and 11 since DE '277 discloses a single controller. Applicant points out that each claim requires that the flotation cell include both a "liquid level controller measuring and controlling the cell liquid level and a foam level controller measuring and controlling the cell foam level". In DE '277 there is a fuzzy controller 30, which receives data from the sensors 21-26 for determining the froth height and the liquid height. The controller

30 controls accept output valve and air inlet valves which in turn effects the pulp level and froth levels in a manner, which appears to be exactly as applicant teaches. The fact that DE '277 has a controller, which is shown as a single black box, does not preclude the claims from reading directly on the disclosure of DE '277. It is abundantly clear that the controller 30 in DE '277 perform the combined functions of applicants controllers 10, 11 etc. and does so in part because of data derived from the accept sensor which senses

The color or turbidity of the accept fraction. The function of "setting a value" is inherent to the process of changing the froth level or pulp level via control valves in response to the measured quality of the accept fraction.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '277 as applied to claim 1 above, and further in view of Ortner (US 5062964). The use of plural flotation cells in deinking is the

industry norm and to include a set of cells along with the single deinker cell illustrated by DE '277 would have been obvious to one of ordinary skill in the art. Applicant asserts that it cannot logically be argued that it would have been obvious to measure the foam level in each of the sub-cells (claim 4) while it would have also been obvious to measure the foam level in only one cell or only one part of a sub-cell (claim 5). This is not persuasive. DE '277 teaches that any given flotation cell may be better operated employing the control system as taught therein. Therefore, it would be a benefit to any given flotation cell in Ortner '964 to modify it to have the DE '277 control system. It would even be better to add the control system to each and every flotation cell although a clear benefit can be realized with the system in only one or some of the flotation cells.

Response to Arguments

5. Applicant's arguments filed 26 Dec 2006 have been fully considered but they are not persuasive. Applicant's arguments are addressed in the body of the rejections.

Conclusion

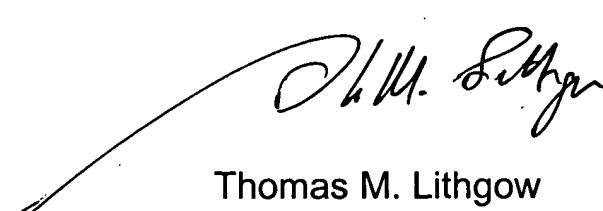
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas M. Lithgow
Primary Examiner
Art Unit 1724

TML